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United States Senate

COMMITTEE ON INDIAN AFFAIRS

WASHINGTON, DC 20510-6450

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November 23, 2020

The Honorable Emily Murphy
Administrator
General Services Administration
1800 F Street, N.W.
Washington, D.C. 20405

Dear Administrator Murphy,

You are charged under law with providing Congressionally-appropriated taxpayer funds to the apparent winner of presidential elections to ensure effective continuity of government in order to protect the health and welfare of Americans and our shared national security. As the Vice Chairman of the Senate Committee on Indian Affairs, I am increasingly concerned that your unexplained refusal to grant the Biden-Harris Transition Team access to critical services and facilities specified in the *Presidential Transition Act of 1963* poses serious risk to Native American families across the country, and compromises the ability of the federal government to meet its trust and treaty responsibilities. I write to urge you to remember your oath of office, put aside political pressure, and release transition resources immediately.

As a senior official in the federal government, you must bear in mind that the United States has specific trust and treaty obligations to American Indians, Alaska Natives, Native Hawaiians, and Indian Tribes.¹ Concomitant with these obligations, the executive branch provides essential services to Native communities that are unique within the federal government, flowing through a cadre of federal programs to meet these responsibilities. The operation of Native health care systems, public safety programs, child welfare services, food security programs, and many other critical functions depend on the stable operation of numerous federal agencies. As such, preventing the Transition Team from obtaining the information and resources it needs to ensure the smooth changeover in the management of these programs will have severe consequences on the health, wellbeing, and daily lives of countless Native families.

Furthermore, Tribes, urban Indian health programs, and the Native Hawaiian Health Care Systems depend on federal partners to provide personal protective equipment, clinical supplies,

¹ The basis for these trust and treaty responsibilities are rooted in the U.S. Constitution, federal statutes, and Supreme Court rulings dating back to the founding of our nation. See, e.g., U.S. Const. art. II, § 2, cl. 2; *Johnson v. M'Intosh*, 21 U.S. 543 (1823).

and medical personnel, as well as to coordinate access to the national COVID-19 vaccine supply once approved.² Disruption of these federal supply chains will impede efforts to combat the recent surge in coronavirus infections in many Native communities.³ Accordingly, failure to begin transition activities threatens to amplify the disparate impact of the COVID-19 public health emergency in Indian Country.

After the Senate confirmed you to your position as Government Services Administration Administrator, you swore an oath to faithfully discharge the duties of your office and defend the Constitution, and it is past time to uphold that oath and our nation's trust and treaty responsibilities to Tribal Nations and Native communities. For these reasons, I call upon you to immediately grant the Biden-Harris Transition Team full access to the resources required under federal law and fulfill your responsibilities – both under the *Presidential Transition Act of 1963* and the federal government's trust and treaty obligations – as the head of the Government Services Administration.

Sincerely,



Tom Udall
Vice Chairman

² According to information provided by the IHS, Tribes and urban Indian health programs have opted to work under IHS jurisdiction at a three to one ratio for the purposes of accessing vaccine distributions from Operation Warp Speed and the CDC. Telephone Briefing by Indian Health Service, U.S. Dep't of Health & Human Services, to Congressional Staff (Nov. 16, 2020).

³ For example, the Indian Health Service (IHS) has now reported more than 93,000 cases –nearly 18% of which have occurred since Election Day. In three IHS regions (i.e., the Great Plains, Billings, and Albuquerque Areas), the seven-day rolling COVID-19 test positivity rates average is greater than +19 percent. The Centers for Disease Control and Prevention (CDC) now estimate that the COVID-19 incidence rate for American Indians and Alaska Natives is 1.8 times higher than the overall national average and that Native COVID-19 patients are hospitalized due to COVID-19 related complications at higher rates than other groups. See *Coronavirus (COVID-19)*, INDIAN HEALTH SERVICE, <https://www.ihs.gov/coronavirus/> (last updated Nov. 19, 2020); and, Centers for Disease Control & Prevention, *Laboratory-Confirmed COVID-19 Associated Hospitalizations*, COVID-NET, https://gis.cdc.gov/grasp/COVIDNet/COVID19_3.html (last visited Nov. 13, 2020).